IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

LINK TREASURE LIMITED, a company organized and existing under the laws of the British Virgin Islands, Plaintiff, v. BABY TREND, INC. a corporation organized and existing under the laws of the state of California, Defendant.	)))))))))))))))	CIVIL ACTION FILE NO. 1:06–cv–1930

MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF PLAINTIFF LINK TREASURE LIMITED'S
CLAIM CONSTRUCTIONS FOR U.S. PAT. NO. 5,876,057

TABLE OF CONTENTS

I. NATURE AND STAGE OF PROCEEDINGS 4

II. BACKGROUND 4

A. The Parties 4

1. Plaintiff 4

2. Defendant 5

B. Technology at Issue 5

C. Overview of the '057 Patent and Link's Asserted Claim 6

III. CLAIM CONSTRUCTION 8

A. General Principles 8

B. Level of Ordinary Skill in the Art 11

IV. ARGUMENT 11

A. Strip Element 12

B. Sliding Plate Element 15

C. Recovery Member Limitation 17

D. Having A Recess Defined [In The Cover] Element 19

V. CONCLUSION 20

TABLE OF AUTHORITIES

Cases

Bell Communications Research, Inc. v. Vitalink Communications Corp., 55 F.3d 615 (Fed. Cir. 1995) 10

Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc. 334 F.3d 1294 (Fed. Cir. 2003) 8

Chimie v. PPG Indus., Inc., 402 F.3d 1371 (Fed. Cir. 2005) 10

Digital Biometrics, Inc. v. Identix, Inc., 149 F.3d 1335 (Fed. Cir. 1998) 8

Hockerson-Halberstadt, Inc. v. Converse, Inc., 183 F.3d 1369 (Fed. Cir. 1999) 8

Linear Tech. Corp. v. Impala Linear Corp., 379 F.3d 1311 (Fed. Cir. 2004) 10

Markman v. Westview Instruments, Inc., 52 F.3d 967 (Fed. Cir. 1995 (*en banc*), *aff'd*, 517 U.S. 370 (1996) 8

Medrad, Inc. v. MRI Devices Corp., 401 F.3d 1313 (Fed. Cir. 2005) 9

Netword, LLC v. Central Corp., 242 F.3d 1347 (Fed. Cir. 2001) 9

Phillips v. AWH Corp., 415 F.3d 1303 (Fed. Cir. 2005) (*en banc*) 8, 9, 10, 11

SciMed Life Sys. v. Advanced Cardiovascular Sys., 242 F.3d 1337 (Fed. Cir. 2001) 9

Vitronics Corp. v. Conceptronic, Inc., 90 F.3d 1576 (Fed. Cir. 1996) 8

LIST OF EXHIBITS

Exhibit A	U.S. Patent No. 5,876,057
Exhibit B	Local Patent Rule 6.3 Joint Claim Constructions for U.S. Patent No. 5,876,057
Exhibit C	Excerpts from RANDOM HOUSE WEBSTER'S COLLEGE THESAURUS (1998)
Exhibit D	Table of Plaintiff Link Treasure Limited's Proposed Constructions

I. NATURE AND STAGE OF PROCEEDINGS

This action involves claims of infringement of two patents by Plaintiff Link Treasure Limited ("Link"). The first patent, U.S. Patent No. 5,876,057,[1] issued on March 2, 1999, and entitled "Folding Device for a Stroller," (the "'057 Patent") is a utility patent and is the subject of this claim construction memorandum. The second patent, U.S. Patent No. D430,826 (the "'826 Patent") is a design patent and, therefore, is not amenable to the Court's claim construction proceedings. The parties exchanged proposed terms for construction, reaching agreement on the terms the parties believe the Court should construe. Thereafter, the parties exchanged proposed constructions for these terms, but have not been able to agree on the appropriate constructions. [2]

II. BACKGROUND

A. The Parties

1. Plaintiff

Plaintiff Link is a company organized and existing under the laws of the British Virgin Islands. [Declaration of Kuan-Neng Cheng In Support Of Plaintiff's Motion For Preliminary Injunction ("Cheng Decl."), at 3].[3] Link is the owner of over 660 patents worldwide on over 340 product features, including over 100 U.S.

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[1] A copy of U.S. Patent No. 5,876,057 is attached as Exhibit A.

[2] A copy of the parties joint claim construction statement for the '057 Patent is attached as Exhibit B for the Court's convenience.

[3] Mr. Cheng's Declaration is Docket No. 32.

patents for various innovations for strollers, car seats, baby carriers, and other infant products, [Cheng Decl., at 5], including the '057 Patent and the '826 Patent.

2. Defendant

Defendant is a California corporation with its principal place of business in Ontario, California. [Defendant Baby Trend, Inc.'s Amended Answer and Counterclaim ("Answer and Counterclaim"), ¶4 of Answer].[4] Defendant is a wholesale company whose products are sold at, among others, Babies R Us, Toys R Us, and Target retail stores located throughout the United States [Declaration of Michael Shin ("Shin Decl."), at ¶3],[5] including the baby strollers at issue in this action that are sold throughout the State of Georgia. [Declaration of Tzu-Hsien Tsai ("Tsai Decl."), at ¶4].[6]

B. Technology at Issue

The inventors of the '057 Patent solved a problem critical to parents of young children—how effectively and efficiently to collapse and expand a baby stroller. Prior to the '057 Patent, parents wishing to utilize collapsible strollers were forced to navigate a host of hooks and lugs, often resulting in confusion regarding which hooks and lugs to connect or disconnect to collapse or expand and secure the stroller. The ‘057 Patent solved this dilemma by proposing a novel method of collapsing and expanding a baby stroller that involved a latching mechanism biased in a locked position and that is capable of being moved to its unlocked position by one or more easily accessible actuators.

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[4] The Answer and Counterclaim is Docket No. 31.

[5] The Shin Decl. is Docket No. 20.

[6] The Tsai Decl. is Docket No. 12.

C. Overview of the ‘057 Patent and Link's Asserted Claim

In particular, the ‘057 Patent describes a folding mechanism for a baby stroller that is operated by a user-accessible actuator, referred to as the "driving member" located at or near the top of the upper support of the baby stroller. ‘057 Patent, Col. 2, ll. 26-29. When the user actuates the driving member (*i.e.*, pulls on the protrusion of the driving member), the force is transmitted to a sliding mechanism through a "strip." ‘057 Patent, Col. 2, ll. 31-41. The sliding mechanism includes a "sliding plate" with a post. The sliding plate is attached at one end to the strip and at the other end to a spring or "recovery member" that biases the sliding plate against the force caused by actuation of the driving member. ‘057 Patent, Col. 2, ll. 37-45. The recovery member is attached at its other end at or near the bottom of the upper support of the baby stroller. ‘057 Patent, Col. 2, l. 41. The folding mechanism also has a cover in the lower support of the baby stroller that has a slot or recess into which the post of the sliding plate is received to lock the baby stroller in its expanded or operable condition. ‘057 Patent, Col. 2, ll. 53-55.

Thus, when the driving member is actuated, the force is transmitted by the strip to the sliding plate, which moves in the same direction and against the bias of the spring. This movement causes the sliding plate's post to move out of the recess of in the lower support's cover, which allows the baby stroller to be folded. When the driving member is released, the bias of the recovery member causes the sliding plate to return to its original position.

Link asserts infringement of claim 1 of the '057 Patent. Claim 1 recites:

> 1. A folding device for a stroller comprising:
>
> A driving member movably mounted around a top portion of an upper support of the stroller and having a protrusion extending out therefrom, a first post movably received within a first slot defined in a periphery of the upper support and securely connected with said driving member, and a **strip** extending within the upper support and having a first distal end securely connected with said first post;
>
> a driven member having a second post movably received within a second slot de fined in a periphery of the upper support and a **sliding plate** slidably received within the upper support and securely connected with said second post and a second distal end of said **strip**;
>
> **a recovery member having a first end securely mounted to a distal end of the upper support and a second end of which is securely connected with said sliding plate**; and
>
> a cover enclosing a top end of a front support of the stroller and **having a recess defined therein**; said

recess being defined to detachably receive said second post therein.

'057 Patent, Col. 3, l. 20 through Col. 4, l. 19 (emphasis added to disputed claim terms).

III. CLAIM CONSTRUCTION

A. General Principles

The principles a court utilizes when construing the terms of a patent claim are well-established. "The claims of a patent define the [patented] invention." *Phillips v. AWH Corp*., 415 F.3d 1303, 1312 (Fed. Cir. 2005) (*en banc*). It is the Court's "obligation to construe as a matter of law the meaning of language used in the patent claim[s]" of a patent at issue. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 979 (Fed. Cir. 1995 (*en banc*), *aff'd*, 517 U.S. 370 (1996). In doing so, the Court must first consider the intrinsic evidence, i.e., the claims, the specification and the prosecution history of the patent. *Digital Biometrics, Inc. v. Identix, Inc.*, 149 F.3d 1335, 1344 (Fed. Cir. 1998).

The starting point for the analysis is the words of the claims themselves. *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996). The words of the claims must be interpreted in "the context of the surrounding words of the claim," not in "isolation." *Brookhill-Wilk 1, LLC v. Intuitive Surgical*, Inc. 334 F.3d 1294, 1299 (Fed. Cir. 2003); *Hockerson-Halberstadt, Inc. v. Converse, Inc.*, 183 F.3d 1369, 1374 (Fed. Cir. 1999). The words of a claim "are generally given their ordinary and customary meaning," which is "the meaning that the term would have to one of ordinary skill in the art in question at the time of the invention." *Phillips*, 415 F.3d at 1312-13.

However, the ordinary meaning is not determined in a vacuum, but instead in the context of the written description and the prosecution history. *Medrad, Inc. v. MRI Devices Corp.*, 401 F.3d 1313, 1319 (Fed. Cir. 2005). An inventor may choose to be his or her own lexicographer; where the specification "reveal[s] a special definition given to a claim term by the patentee that differs from the meaning it would otherwise possess . . . the inventor's lexicography governs." *Phillips*, 415 F.3d at 1316. In addition, "the specification may reveal an intentional disclaimer, or disavowal, of claim scope by the inventor. In that instance as well, the inventor has dictated the correct claim scope, and the inventor's intention, as expressed in the specification, is regarded as dispositive." *Id.* at 1316 (internal citations omitted). Courts are required to refrain from reading limitations from the specification into the claims, although it is permissible, indeed required, to construe the claims in view of the invention disclosed in the specification. *SciMed Life Sys. v. Advanced Cardiovascular Sys.*, 242 F.3d 1337, 1340-41 (Fed. Cir. 2001); *Netword, LLC v. Central Corp.*, 242 F.3d 1347, 1352 (Fed. Cir. 2001) (claims cannot "enlarge what is patented beyond what the inventor has described as the invention"). Construing the claim language in isolation from the specification is legal error. *Bell Communications*

Research, Inc. v. Vitalink Communications Corp., 55 F.3d 615, 621 (Fed. Cir. 1995). Therefore, "the specification is always highly relevant to the claim construction analysis" and "[u]sually, it is dispositive." *Phillips*, 415 F.3d at 1315.

The other form of intrinsic evidence that the Court must consult is the prosecution history. The "prosecution history" of a patent, also known as the "file wrapper," is the collection of documents located in the U.S. Patent and Trademark Office including a patent application and communications between the applicant and the U.S. Patent and Trademark Office with respect to the application. The prosecution history "can often inform the meaning of the claim language by demonstrating how the inventor understood the invention and whether the inventor limited the invention in the course of prosecution, making the claim scope narrower than it would otherwise be." *Phillips*, 415 F.3d at 1317. Consulting the prosecution history thus enables a court "to exclude any interpretation that was disclaimed during prosecution." *Chimie v. PPG Indus., Inc.*, 402 F.3d 1371, 1384 (Fed. Cir. 2005).

Courts may consult extrinsic evidence such as dictionaries and expert testimony in "determining meanings that would have been attributed by those of skill in the relevant art to any disputed terms . . . in the claims." *Linear Tech. Corp. v. Impala Linear Corp.*, 379 F.3d 1311, 1320 (Fed. Cir. 2004) (internal citations omitted). However, "extrinsic evidence . . . is less significant than the intrinsic record in determining the legally operative meaning of claim language." *Phillips*, 415 F.3d at 1317 (internal citations omitted). "[H]eavy reliance on the [extrinsic evidence] divorced from the intrinsic evidence risks transforming the meaning of the claim term to the artisan into the meaning of the term in the abstract, out of its particular context, which is the specification." *Id*. at 1321. However, the Federal Circuit affirmed that dictionaries can be "useful to assist in understanding the commonly understood meaning of words," and that judges are free to consult dictionaries "at any time in order to better understand the underlying technology and may also rely on dictionary definitions when construing claim terms, so long as the dictionary definition does not contradict any definition found in or ascertained by a reading of the patent documents." *Id*. at 1322-23 (internal citations omitted).

B. Level of Ordinary Skill in the Art

Patent claims should be construed as they would by a hypothetical "person of ordinary skill in the art" to which the patent is directed. *Phillips*, 415 F.3d at 1312-13. The level of ordinary skill in the art for the '057 Patent is someone with a bachelor's degree in mechanical engineering and the equivalent of 2-5 years of experience in the field of mechanical design and manufacture.

IV. ARGUMENT

Claim 1 of the '057 Patent describes a novel mechanism for the folding and expanding of a baby stroller to its fixed and operating position. In setting forth their interpretations of the disputed terms in claim 1, the parties have taken two very different approaches. Defendant cites to the passages in the specification of the '057 Patent where the disputed claim terms are discussed and then proposes that the Court turn to general purpose dictionaries such as THE OXFORD AMERICAN COLLEGE DICTIONARY and RANDOM HOUSE WEBSTER'S UNABRIDGED DICTIONARY to ascertain the meaning of those terms. Link, on the other hand, cites the Court primarily to the same passages in the '057 Patent's specification and then to its expert declaration that states how one of ordinary skill in the art would understand the terms in light of the specification.

In any event and for the additional reasons discussed below, Link's proposed claim constructions are appropriate and should be adopted by the Court.

A. Strip Element

CLAIM LIMITATION	LINK'S CONSTRUCTION	DEFENDANT'S CONSTRUCTION
a driving member movably mounted around a top portion of an upper support of the stroller and having a protrusion extending out therefrom, a first post movably received within a first slot defined in a periphery of the upper support and securely connected with	A relatively thin and inextensible piece of material of uniform width.	A piece of material that is long, narrow, and flat.

said driving member, and a **strip** extending within the upper support and having a first distal end securely connected with said first post; a driven member having a second post movably received within a second slot de fined in a periphery of the upper support and a sliding plate slidably received within the upper support and securely connected with said second post and a second distal end of said **strip**;		

As set forth above, the disputed term "strip" appears in two limitations of claim 1 of the '057 Patent. The parties agree that strip, as used in claim 1 of the '057 Patent, refers to a piece of material with certain characteristics. It also appears that the parties agree that the piece of material must be at least "relatively thin" since Link contends that the piece of material must be relatively thin and Defendant asserts that the piece of material must be both "long" and "narrow," which would be a subset of "relatively thin." Accordingly, the real dispute between the parties appears to be over whether the strip must be "flat," as proposed by Defendant.

The only support apparently relied upon by Defendant for its contention that the strip must be flat is THE OXFORD AMERICAN COLLEGE DICTIONARY that defines strip as, among other things, "steel or other metal in the form of narrow flat bars." Conversely, nothing in the specification of the '057 Patent requires that the strip be flat. Illustrative of this fact is Fig. 3 from the '057 Patent in which the strip is identified as 50. In Fig. 3, as in all '057 Patent's drawings, the strip is seen only from the horizontal perspective in which a square, cylindrical, or rectangular (i.e., flat) piece of material would each appear exactly the same. To be sure, Link's expert recognized that the term strip need not refer to a flat piece of material when he referenced the phrase "strip of wire." Expert Report of Jonathan S. Colton, PH.D., P.E., p. 8.[7] Simply put, there is nothing in the specification of the '057 Patent that requires the strip to be a flat piece of material and Defendant's efforts to import this limitation included in only one of several of Defendant's general purpose dictionary definitions is wholly inappropriate. Accordingly, this Court should adopt Link's proposed construction of strip.

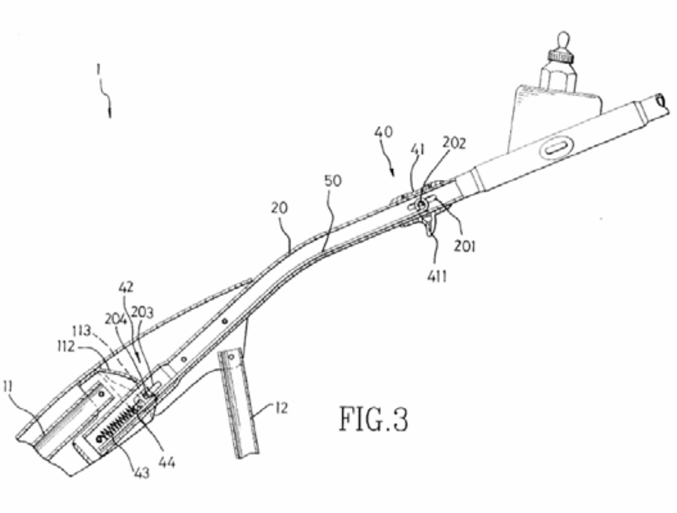

FIG.3

[7] Mr. Colton's report is included in Exhibit B of Plaintiff Link Treasure Limited's Motion for Preliminary Injunction, Docket No. 32.

B. Sliding Plate Element

CLAIM LIMITATION	LINK'S CONSTRUCTION	DEFENDANT'S CONSTRUCTION
a driven member having a second post movably received within a second slot defined in a periphery of the upper support and a **sliding plate** slidably received within the upper support and securely connected with said second post and a second distal end of said strip;	A relatively thin sheet (plate) that can move along and in contact with another element.	A sheet that is thin, flat, and rigid and moves along and in contact with the upper support.

As set forth above, the disputed term "sliding plate" appears in a single limitation of claim 1 of the '057 Patent. The parties apparently agree that sliding plate, as used in claim 1 of the '057 Patent, refers to a sheet that is at least relatively thin and that can move along and in contact with another element. Defendant seeks to impose the further restrictions that the sliding plate must also be flat and rigid.

It is not disputed that nothing in the intrinsic record, however, allows the Court to impose these additional restrictions. Instead, Defendant again draws these additional restrictions from dictionary references that simply define the term in a vacuum. Indeed, Defendant's efforts to impose the restriction that the sliding plate be flat are directly contradicted by the intrinsic record. Looking closely at the sliding plate 44 shown in Fig. 4 demonstrates that the structure is not flat. To be sure, sliding plate 44 has two cross-hatched areas at each of its ends representing protrusions or a change in contour in the structure. Indeed, it is these four protrusions by which the sliding plate attaches to the strip. Accordingly, the sliding plate as represented in the figures of the '057 Patent is not flat and Defendant's dictionary citations should not be allowed to contradict the intrinsic record.

203
204
44
Cross-hatched areas

'057 Patent, excerpt of Fig. 4

Likewise, there is nothing in the intrinsic record that requires the sliding plate to be rigid. Instead, Defendant seeks to impose this additional restriction based upon the definition set forth in THE AMERICAN HERITAGE COLLEGE DICTIONARY. Importantly, neither the lone technical dictionary relied upon by Defendant in support of its constructions nor the two other general purpose dictionaries require a plate to be rigid.

Given the foregoing, Defendant's attempt to impose the additional restrictions that the sliding plate be both flat and rigid is without merit and this Court should adopt Link's proposed construction.

C. Recovery Member Limitation

CLAIM LIMITATION	LINK'S CONSTRUCTION	DEFENDANT'S CONSTRUCTION
A Recovery Member Having A First End Securely Mounted To A Distal End Of The Upper Support And A Second End Of Which Is Securely Connected With Said Sliding Plate	One or more components that exert a force that returns one or more other components to their original position(s) or location(s) and that is positioned between the sliding plate and one end of the upper support such that the recovery member's first end is attached at or near the end of the upper support that is farthest away from the handle in a manner such that the recovery member does not come loose during normal operation of the mechanism and that is attached at another end to the sliding plate in a manner such that the recovery member does not come loose during normal operation of the mechanism.	The recovery member is positioned between the sliding plate and the distal end of the upper support by the recovery member's first end being securely mounted at or near the edge of the upper support that is farthest away from the handle and its second end being securely connected to the sliding plate at a position between the first end of the recovery member and the handle.

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It appears that the parties do not dispute ***what*** the recovery member is or ***how*** the recovery member is attached to various structures as a part of the claimed folding mechanism, but rather dispute only ***where*** the first end of the recovery member is attached. To be sure, it appears that this dispute distills down simply to whether the recovery member is attached at its first end at or near the "end" or the "edge" of the upper support farthest from the handle.

Link's proposed construction that requires the first end of the recovery member to be attached to an end of the upper support utilizes the language of the specification--the distal "end"--to describe the location of attachment and utilizes a term for which the jury's and one of reasonable skill in the art's understanding are the same. Conversely, Defendant's proposed construction that would require one end of the recovery member to be attached to an "edge" of the upper support seeks to import unnecessary ambiguity, requiring the Court to further define for the jury what constitutes an edge of a structure.

Accordingly, the Court should adopt Link's proposed construction of the recovery member limitation.

D. Having A Recess Defined [In The Cover] Element

CLAIM LIMITATION	LINK'S CONSTRUCTION	DEFENDANT'S CONSTRUCTION
a cover enclosing a top end of a front support of the stroller and **having a recess defined therein**; said recess being defined to detachably receive said second post therein.	Having an indentation or depression in the structure that overlays at least a portion of the top of the front support of the stroller	A surface of the cover has a hole or hollow.

Link's proposed construction defines the two necessary constituents of this element--the feature (recess) and the structure having the feature (cover). Defendant's proposed construction, however, only defines the feature (recess). In essence, Defendant's proposed construction wholly fails to define in what the recess exists. Thus, as with its proposed construction for recovery member, Defendant's proposed construction again leaves the court in the position of having to later define "cover" for the jury.

Moreover, the general purpose dictionaries relied upon by Defendant for its proposed construction of this element further support the expert declaration of Link, stating that one of ordinary skill in the art would understand that the structure overlaying at least a portion of the top of the front support of the stroller has an "indentation" or "depression." For example, THE AMERICAN HERITAGE

COLLEGE DICTIONARY defines "recess" as an "indentation or small hollow;" the RANDOM HOUSE WEBSTER'S UNABRIDGED DICTIONARY defines "recess" as "an indentation in a line or extent or coast, hills, forest, etc.;" and MERRIAM–WEBSTER'S COLLEGIATE DICTIONARY defines "recess" as an "indentation, cleft." Exhibit B, pp. 15–16. Indeed, "depression" and "indentation" are synonyms of "hollow." RANDOM HOUSE WEBSTER'S COLLEGE THESAURUS 334 (1998). Excerpts from the appropriate pages from this thesaurus are included in Exhibit C.

Accordingly, the Court should adopt Link's proposed construction of the having a recess defined [in the cover] limitation.

V. CONCLUSION

For the reasons stated above, Link respectfully requests that, for each claim element, the Court adopt Link's proposed constructions. For the Court's convenience, a complete table of all of Link's proposed constructions is included as Exhibit D.

Respectfully submitted this 23rd day of April, 2007.

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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1D, the undersigned counsel certify that the foregoing brief has been prepared in Book Antiqua 13 point, one of the four fonts and points approved by the Court in LR 5.1B.

This 23rd day of April, 2007.

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

LINK TREASURE LIMITED, a company organized and existing under the laws of the British Virgin Islands, and DISCOVERY INTERNATIONAL CO., LTD., a company organized and existing under the laws of the British Virgin Islands, Plaintiffs, v. BABY TREND, INC. a corporation organized and existing under the laws of the state of California, Defendant.	))	CIVIL ACTION FILE NO. 1:06–cv–1930

CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2007 a true and correct copy of the foregoing Memorandum of Points and Authorities in Support of Plaintiff Link Treasure Limited's Claim Constructions for U.S. Pat. No. 5,876,057 was caused to be filed electronically via CM/ECF in the United States District Court for the Northern District of Georgia, with notice of same being electronically served by the Court, as follows:

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